IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3900 OF 2005

Punjabhai Jagmalbhai Barad. ... Applicant

Versus.

State of Maharashtra. ... Respondent.

Shri S.V.Marwadi for the Applicant.

Shri K.V.Saste, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 5th July, 2005.

P.C.:

1. The Applicant had made by an Application for anticipatory bail before the Sessions Court, Thane. The learned Sessions Judge by order dated 17th June 2005 granted anticipatory bail for a limited period of 7 days till 24th June 2005. The Sessions Judge placed reliance on the decision the Apex court reported in AIR 1996 S.C. page 1042 (Salauddin Abdulsamad Shaikh v/s. State of Maharashtra) and held that the anticipatory bail can be granted only for a limited period.

2. Heard the learned Counsel appearing for the parties. The co-accused has been ordered to be enlarged on regular bail by the learned Additional Sessions Judge.

3. The offence registered against the Applicant and co-accused is under sections 363, 366, 343, 420, 506(2) read with 34 of the Indian Penal Code. The F.I.R. is filed by one Kalpana Satwara. Her case is that on 15th

February 2005 when she was walking on the road one Uday approached her and told her to enter a Tata Sumo vehicle under the pretext of going to her residence. Her allegation is that the said Uday who is the Accused No.1 took the Complainant to Rajkot and she was confined in the house of the Applicant. The allegation against the Applicant herein is that he threatened the Complainant with disfigurement of her face by throwing acid if she refused to marry accused No.1 Uday.

4. Accused No.1 Uday has been enlarged on bail under the orders of the Sessions Court. While enlarging the Accused No.1, the learned Sessions Judge has noted that the age of the Complainant was 22 years and marriage between the Complainant and the Accused No.1 had taken place before a Priest and the same has been registered with the Registrar of Marriage.

5. In the order dated 17th June 2005 the learned Sessions Judge has not recorded a finding that the Applicant is not entitled to be released on anticipatory bail and that custodial interrogation of the Applicant was required. All that the learned Sessions Judge observed is that the regular Court before whom the charge sheet is going to be filed will be the proper Court to consider the material collected by the Police. Thus it is obvious that the learned Sessions Judge was inclined to grant relief in favour of the Applicant. The learned Sessions Judge has however granted relief

which will enure to the benefit of the Applicant only till 24th June 2005. In my view considering the role played by the Applicant in the offence and considering the fact that the co-accused was enlarged on bail, the Applicant deserves protection till filing of the charge sheet.

6. Hence the following order is passed:

(i) In the event of the arrest of the Applicant in connection with C.R.No.I-93/2005 of Naupada Police Station, Thane, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.7500/- with one or two sureties in the like amount.

(ii) The Bail is granted subject to condition that the Applicant will attend the Naupada Police Station on every Sunday from 9.00 a.m. to 11.00 a.m. till the charge sheet is filed.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to

the Court or to the Police Officer/ Investigating Agency. The Applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is dispose of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.